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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/764,294 | 01/19/2001 | Carlos V. Perry JR. | 06080003AA | 6359 |

7590 10/02/2002
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EXAMINER

CINTINS, IVARS C

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1724

DATE MAILED: 10/02/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/764,294

Applicant(s)
Perry

Examiner
Ivars Cintins

Art Unit
1724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on April 30, 2002 and July 11, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-19 and 21-30 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-19 and 21-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 24-29 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The use of a "mattress-like filter" in the recited "recirculating filter system" appears to be critical and essential to the practice of the invention (see page 3, lines 13-17 of the specification). Since this feature has not been recited in claims 24-29, these claims are not enabled by the disclosure. *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

Claim 15 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The limitation that the system includes particles of "polyvinyl chloride" (claim 15, line 2) does not appear to be supported by the disclosure originally filed, and hence constitutes **new matter**.

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 24-29 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 24-29 fail to recite the apparently essential limitation that the "recirculating filter system" includes a mattress-like filter; and therefore, these claims fail to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 24-29 are also incomplete because it appears that a "filter system" must include some type of filter.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10, 11, 17, 21, 22, 24-28 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Jowett. The reference discloses (see Fig. 2) a system comprising a tank formed from a

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synthetic material (col. 5, line 26), a plurality of "mattress-like" filter elements containing synthetic material (col. 7, line 36) within the tank, fluid passageways integrally formed in both the bottom and sides of the tank, and a "sheet" material (i.e. bag, see col. 3, line 34 and col. 4, lines 34-35) located in a side passageway, and an inlet pipe (i.e. 29) which extends from an interior to an exterior of the tank; and this is all that is required by claims 10, 11, 17, 21, 22, 24-28 and 30.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jowett. The reference discloses the claimed invention with the exception of the recited flange and ribs. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the tank of the reference system with a conventional flange and ribs, in order to provide additional structural stability for this tank.

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Claims 12-16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jowett in view of Hirs. Jowett discloses the claimed invention with the exception of the use of diverse filtering materials, including a synthetic material such as polypropylene. Hirs discloses polypropylene particles as a filtering material (see col. 2, lines 19-22 and 64-65), and further teaches the use of filtering materials having different particle sizes. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of Jowett with the filtering materials of Hirs, in order to further purify the liquid undergoing treatment in this primary reference system. Such modification is deemed to be especially obvious in view of the disclosure by Jowett (see col. 1, lines 58-59) that mixing iron oxide with sand has been considered.

Applicant's arguments filed January 11, 2002 have been noted and carefully considered but are not deemed to be persuasive of patentability. Applicant argues that Jowett does not anticipate the claimed invention because this reference fails to show (i) a tank having troughs integrally formed in at least a bottom and sides thereof; and (ii) at least one mattress-like filter placed within the tank having aggregate material sealed therein. It is pointed out, however, that the system of Jowett includes both

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side passageways for fluid (i.e. 38 and unnumbered passageway containing material 43) and a bottom passageway for fluid (i.e. linking the two side passageways), and further shows (see Fig. 2) that these passageways are integrally formed in the tank; and these fluid passageways are deemed to be structurally and patentably indistinguishable from the broadly recited "troughs" of claims 10 and 24. Applicant should further note that the blocks or bags of iron oxide containing material (see col. 3, lines 26-34) are structurally and patentably indistinguishable from the "mattress-like filter placed within the tank ... having aggregate material sealed therein" of claim 10.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the

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statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (703) 308-3840. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Simmons, can be reached at (703) 308-1972.

The fax phone numbers for this art unit are: (703) 872-9311 for "Official" faxes after Final Rejection; (703) 872-9310 for all other "Official" faxes; and (703) 872-9492 for "Draft" and other "Unofficial" faxes.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.


Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
September 30, 2002